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**OAKLAND UNIFIED
SCHOOL DISTRICT**
Community Schools, Thriving Students

Board Cover Memorandum

To Board of Education

From Kyla Johnson-Trammel, Superintendent
Matin Abdel Qawi, High School Network Superintendent
Lucia Moritz, Executive Director of College and Career Readiness

Meeting Date March 10, 2021

Subject Memorandum of Understanding - University of California, Benioff Children's Hospital Oakland

Ask of the Board Approval by the Board of Education of a Memorandum of Understanding between the District and the University of California, San Francisco Benioff Children's Hospital, Oakland, CA. OUSD will continue to provide instruction for school age children who are hospitalized at Benioff Children's Hospital Oakland for the period of February 1, 2021 through January 31, 2022, with the option to extend for one year.

Background Benioff Children's Hospital Oakland and the District have an ongoing relationship providing services to chronically ill or temporarily disabled children. This school program allows the District to comply with Education Code section 48206.3 and 48207.

- 48206.3 requires districts to provide public education to any temporarily disabled student for whom regular day classes or other alternative programs are impossible or inadvisable. Individual instruction is to be provided in pupil's homes, hospitals, or other residential health facilities.
- 48207 requires that districts provide education to all students residing in hospitals or medical facilities within the district, regardless of the pupil's home residence.

Discussion This agreement will allow the District to continue providing educational services to hospitalized students at Benioff Children's Hospital Oakland. It details the roles and responsibilities of each organization and allows District employees to maintain a school program within the hospital.

Fiscal Impact No fiscal impact

Attachment(s): Memorandum of Understanding

**MEMORANDUM OF UNDERSTANDING BETWEEN
OAKLAND UNIFIED SCHOOL DISTRICT AND
CHILDREN'S HOSPITAL & RESEARCH CENTER AT OAKLAND**

This Memorandum of Understanding ("MOU") is made and entered into as of the date the last party signs, by and between the Oakland Unified School District, ("OUSD" or "District"), and Children's Hospital & Research Center at Oakland, doing business as UCSF Benioff Children's Hospital Oakland ("BCH-O").

WITNESSETH:

WHEREAS, BCH-O seeks to maintain a school site ("BCH-O School") to perform such services required and listed in this MOU, which will be incorporated into this agreement by reference, in collaboration with OUSD pursuant to the terms and conditions hereinafter stated:

NOW, THEREFORE, it is agreed by the parties hereto as follows:

I. Services

A. For the duration of this contract, as hereinafter specified, OUSD agrees to:

1. Within five (5) days of receiving notice by BCH-O or the child's parent/legal guardian, provide instruction to any child who receives treatment at BCH-O and who is or would be eligible to be enrolled in grades K-12 through the OUSD Home and Hospital Program ("OUSD Program.") OUSD's obligation will be consistent with the requirements under Education Code section 48208. OUSD shall assign teachers based upon the number of students being served at BCH-O School. BCH-O shall inform OUSD of increases in the student population at BCH-O and OUSD shall identify when the increases necessitate increased numbers of staff.
2. Communicate with student's teachers when possible or as needed.
3. Issue attendance and grade credits to students in accordance with OUSD and State curriculum requirements.
4. Purchase and supply learning materials (i.e., textbooks) and equipment to students as necessary.
5. Utilize the Average Daily Attendance ("ADA") funds which are generated from the OUSD Program's student attendance for both instructional and support services by BCH-O and District support services.
6. Support BCH-O's effort to seek supplemental funds to support the BCH-O School by writing letters of support for proposals and identifying, where possible, sources of funding.
7. Provide academic assessment upon parent/guardian or teacher request for the purpose of monitoring student progress. Requested academic assessments will only be provided after OUSD's receipt of parent/guardian consent.
8. Report to the medical provider any potential medical concerns identified during the course of interactions.

9. Comply with the Family Educational Rights and Privacy Act (the "Act") in their handling of educational records of Students enrolled in the programs, including, without limitation, the annual notification to Students or parents of Students of their rights under the Act. OUSD agrees to protect these records in accordance with this Act. Neither party shall be permitted to authorize and further disclosure of the educational records of students of the other party to persons nor entities not a party to this Agreement without first having received permission of the other party, and having obtained assurances that the other party has fully complied with the provisions of the Act.
 10. May access, use or disclose protected health information only as permitted or required by the October 2017 HIPAA Business Associate Agreement entered into by the parties or as required by law.
- B. For the duration of this MOU, as hereinafter specified, BCH-O agrees to perform the following services to support the ultimate review, supervision and responsibility of OUSD:
1. Assist in the operational accountability and responsibility of the BCH-O School pursuant to the terms and conditions of this MOU.
 2. Assist in the proper administration of the program and operation of the BCH-O School pursuant to the terms and conditions of this MOU.
 3. Assure proper supervision of BCH-O staff and provide BCH-O staff with direction and support in the administration of the hospital program and the provision of services to students/patients.
 4. Facilitate enrollment of students at the BCH-O site by immediate health assessment of incoming students.
 5. Assure accurate completion of attendance records.
 6. Provide any training to OUSD staff needed to provide services in a medical facility as required by BCH-O policy or state or federal law, including protocols designed to limit exposure to COVID-19 and other communicable diseases.
 7. Provide general supplies (pens, paper, etc.) as needed.
 8. Confidentiality— BCH-O shall maintain strict confidentiality of all information about individual students received under this MOU and will disseminate such information only as required by law. BCH-O acknowledges that OUSD student information and other records regarding a student's participation in the BCH-O School may be considered student educational records protected by the Federal Family Educational Rights and Privacy Act (FERPA), and that student permission must be obtained, or other safeguards fulfilled, before releasing specific data to anyone, even under subpoena. This obligation is intended to survive termination of the Agreement for statutorily required period of time. BCH-O will be allowed to use the data received under this MOU to solicit funding to continue to expand its services/program, so long as there is no information from which the identity of any student

participating in the BCH-O School could be made. Any student information deemed confidential under FERPA shall be provided to BCH-O only if the parent/guardian has given written consent.

9. Provide locked storage and a work space for OUSD staff's use with a telephone, computer and access to printing.
- C. For the duration of this contract, as hereinafter specified, BCH-O and OUSD jointly agree to the following:
1. Matters pertaining to students, such as assignments, transfer, and non-corporal discipline will be the ultimate responsibility of appropriate OUSD personnel.
 2. Observe District policies and regulations, and state and federal laws, including the Family Education Rights and Privacy Act of 1974, commonly known as FERPA, related to the confidentiality of pupil and personnel records.
 3. The Parties further agree that OUSD's Office of Alternative Education shall be responsible for supervising any OUSD staff who provide instruction under this agreement.
 4. Selection and delivery of an appropriate instructional program (e.g. flexible learning program, remote learning, and site-based instruction) will be chosen at the discretion of OUSD. OUSD reserves the right to select and offer an instructional program that: (1) may be provided within the parameters of established safety protocols designed to limit the exposure to highly contagious diseases; and (2) is consistent with the educational program(s) being offered District-wide. OUSD agrees to purchase and supply learning materials (i.e., textbooks) and equipment that is required for student's participation in the selected instructional program.

II. Budget and Payments

- A. It is expressly understood and agreed between the parties hereto that students receiving instruction through BCH-O School are OUSD students. As such, OUSD is entitled to petition for and collect any revenue in connection with ADA or any other calculation.
- B. Upon request and reasonable notice, BCH-O shall make available for examination and audit by OUSD all books and accounts pertaining to the OUSD Program, specifically, BCH-O shall provide access to any information required by OUSD for attendance audits and financial audits.

III. Term

The term of this agreement shall be for the period February 1, 2021 through January 31, 2022 with an option to extend for another one year term. Either Party may terminate this agreement without cause after notifying the other party. Sixty days written notice is required prior to termination.

IV. Notice

All notices and invoices provided for under this Agreement shall be in writing and either personally delivered during normal business hours or sent by U.S. Mail (certified, return

receipt requested) with postage prepaid to the other party at the address set forth below:

BCH-O:

Jodi Hirsch
Vice President for Legal Affairs
Children's Hospital & Research Center at Oakland
d/b/a UCSF Benioff Children's Hospital Oakland
747 52nd Street, Oakland, CA 94609
Jodi.hirsch@ucsf.edu

With a copy to:
Ann Kriozere
Director of Contracting
Children's Hospital & Research Center at Oakland
d/b/a UCSF Benioff Children's Hospital Oakland
747 52nd Street
Oakland, CA 94609
Ann.kriozere@ucsf.edu

OUSD Representative:

Name: Joshua Daniels

Site /Dept.: Office of the General Counsel

Address: 1000 Broadway, Suite 300
Oakland, CA 94607

Phone: 510-879-8535

Email: josh.daniels@ousd.org

Notice shall be effective when received if personally served or, if mailed, three days after mailing. Either party must give written notice of a change of address.

V. OUSD Program and BCH-O School Liaisons

The individuals set forth below are the designated OUSD Program and BCH-O School Liaisons for each Party and should be contacted regarding any regular matters related to the performance of this Agreement.

OUSD Liaison:

Name: Gayle Buckles

Site /Dept.: Home Hospital Program

Address: 915 54th Street

Oakland, CA 94608

Phone: 510-597-4294

Email: gayle.buckles@ousd.org

BCH-O Liaison:

Name: Kelly Puou

Title: BCH-O Interim Director
Patient Care Services, Director
Hematology, Oncology, BMT

Address: 747 52nd Street,

Oakland, CA 94609

Phone: 510-428-3378

Email: Kelly.Gallardo-Puou@ucsf.edu

VI. Facility

The BCH-O School shall be housed at BCH-O located 747 Fifty Second Street, Oakland, CA 94609 and the Summit campus located at 3100 Summit Street, Oakland, CA.

VII. Training

BCH-O agrees to arrange for any required orientation/new employee training for all DISTRICT employees who provide services under this Agreement. In addition, these DISTRICT employees shall be given and are expected to read and comply with any relevant policies and manuals furnished by BCH-O.

VIII. Indemnification

Each party shall defend, indemnify and hold the other party, its officers, employees, agents, affiliates, and subcontractors, harmless from and against any and all liability, loss, expense, (including reasonable attorneys' fees), or claims for injury or damages, including consequential damages, whether to person(s) or property, arising out of the performance of this contract but only in proportion to and to the extent it or they are caused by or result from the negligent or intentional acts or omissions of the indemnifying party, its officers, employees, agents, affiliates, and subcontractors.

IX. Property and Equipment

BCH-O agrees to exercise reasonable care in safeguarding all property and equipment belonging to OUSD, and purchased with program funds, in accordance with any terms and conditions of the contract.

X. General

- A. **Governing Law/Venue.** This Agreement shall be performed in Oakland, California and is governed by the laws of the State of California, but without resort to California's principles and laws regarding conflict of laws. The Alameda County Superior Court shall have jurisdiction over any litigation initiated to enforce or interpret this Agreement.
- B. **Severability.** If any term provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the

remainder of the provisions hereto shall remain in full force and effect and shall in no way be affected, impaired or invalidated as a result of such decision.

- C. Integration/Entire Agreement of Parties. This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
- D. Counterparts. This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.
- E. Signature Authority. Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been given the proper authority and empowered to enter into this Agreement.
- F. Contract Contingent on Governing Board Approval. OUSD shall not be bound by the terms of this Agreement until it has been formally approved by OUSD's Governing Board, and no payment shall be owed or made to BCH-O absent that formal approval. This Agreement shall be deemed approved when it has been signed by the Board of Education, and/or the Superintendent as its designee.
- G. Contract Publicly Posted. This contract, its contents, and all incorporated documents are public documents and will be made available by OUSD to the public online via the Internet.
- H. Assignment. The obligations of either Party under this Agreement shall not be assigned without the express prior written consent of the other Party.
- I. Third Parties. This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.

IN WITNESS HEREOF, the parties are the authorized representatives of said organizations and have therefore, executed this contract as of this date herein above written for and on behalf of such organization by authority of governing bodies is within the scope of the powers of said organization.

**Children's Hospital & Research Center at Oakland Unified School District
Oakland dba UCSF Benioff Children's
Hospital Oakland**

DocuSigned by:

Matthew Cook

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Matthew Cook

President
2/8/2021

Shanthi Gonzales

3/11/2021

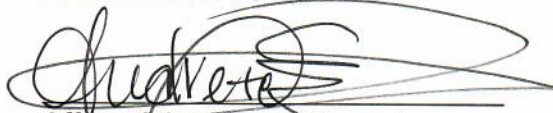
Shanthi Gonzales
President, Board of Education

Kyla Johnson-Trammell

3/11/2021

Kyla Johnson-Trammell
Superintendent

APPROVED AS TO FORM



Office of the General Counsel